

**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF ILLINOIS EASTERN DIVISION**

IN RE: DEALER MANAGEMENT
SYSTEMS ANTITRUST LITIGATION

This Document Relates To:
The Dealership Action

MDL No. 2817
Case No. 18-cv-00864

Hon. Robert M. Dow, Jr.
Magistrate Judge Jeffrey T. Gilbert

DEALERSHIP CLASS PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Dealership Class Plaintiffs ("Dealers") respectfully submit this notice of supplemental authority to inform the Court of recent developments post-dating the briefing on the parties' summary judgment and *Daubert* motions.

1. Arizona's Dealer Law

Dealers' summary judgment motion to dismiss CDK Global, LLC's ("CDK") counterclaims cited a recently-enacted Arizona statute (codified at Ariz. Rev. Stat. Ann. §§ 28-4651 to 4655) ("Dealer Law"), that was designed to prohibit certain of the anticompetitive conduct challenged in this action. *See* Dealership Counter-Defendants' Memorandum in Support of their Motion for Summary Judgment on CDK Global, LLC's Counterclaims (ECF No. 965, at 21 & n.38; 52 n.87; Dealership Counter-Defendants' Statement of Undisputed Material Facts in Support of Their Motion for Summary Judgment on CDK Global, LLC's Counterclaims (ECF 968, at ¶ 38).

In a separate action filed in the District of Arizona, CDK (together with The Reynolds & Reynolds Company ("Reynolds")) moved unsuccessfully to preliminarily enjoin enforcement of the statute, and CDK advised this Court that it intended to appeal the decision to the Ninth Circuit. *See* CDK Global, LLC's Opposition to Authenticom, Inc.'s Motion for Summary Judgment on

CDK's Counterclaims (ECF 1055, at 42 n.17). The Ninth Circuit has now unanimously affirmed the district court's decision. *See CDK Global LLC v. Brnovich*, No. 20-16469, 2021 WL 4944824 (9th Cir. Oct. 25, 2021) (attached hereto as Exhibit A). As the Ninth Circuit explained, the Arizona statute is "aimed at . . . restricting anticompetitive business practices by technology companies that provide database services for dealers"). *Id.* at *1; *see id.* at *2 (CDK and Reynolds "control a substantial majority of the DMS market.").

2. Parallel Paths/Nobel Prize in Economics

The Nobel Prize in Economics was recently awarded to Joshua D. Angrist (along with Guido W. Imbens) "for their methodological contributions to the analysis of causal relationships."¹ Angrist is the author of *MOSTLY HARMLESS ECONOMETRICS: AN EMPIRICIST'S COMPANION*, a text cited by Dealers to support their opposition to CDK's "eyeball" critique of Dr. Williams' testing of the parallel paths assumption by visual examination of the trends between the treatment group and the control group in this case. *See* Memorandum in Support of Defendant CDK Global, LLC's Motion to Exclude the Opinions and Proffered Testimony of Dr. Michael A. Williams (ECF No. 882, at 5-6); Dealership Class Plaintiffs' Corrected Memorandum in Opposition to CDK's Daubert motion concerning Dr. Michael Williams (ECF No. 1292, Corrected Version, at 8 n.2). The methodology used by Angrist, as explained in his text, is the same methodology used by Dr. Williams here. *Id.*

¹ The Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel 2021, NobelPrize.org., <https://www.nobelprize.org/prizes/economic-sciences/2021/summary/> (Oct. 28, 2021).

Dated: October 29, 2021

Respectfully submitted,

/s/ Peggy J. Wedgworth

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CERTIFICATE OF SERVICE

I, John Hughes, an attorney, hereby certify that on October 29, 2021, I caused a true and correct copy of the foregoing DEALERSHIP CLASS PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

/s/ John Hughes

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